

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA and
STATES OF CA, CO, et al., ex rel.
AZAM RAHIMI,

Plaintiffs,

v.

15cv1038-KK-WPL [Under Seal]

AMPHASTAR PHARMACEUTICALS,
ACTIVIS, INC., SANDOZ, INC., et al.,

Defendants.

FILED UNDER SEAL

**JOINT NOTICE OF ELECTION
TO DECLINE INTERVENTION**

Upon due review, investigation and consideration, pursuant to the False Claims Act (“FCA”), 31 U.S.C. § 3730(b)(4)(B), the United States notifies the Court of its decision not to intervene in this action at the present time. The United States has notified relator’s counsel, the State of New Mexico, and the designated coordinator for the National Association of Medicaid Fraud Control Units (“NAMFCU”).¹ The State of New Mexico and all other named States have likewise declined to intervene.

The Maryland False Health Claims Act provides that “[i]f the State does not elect to intervene and proceed with the action . . . before unsealing the complaint, the court shall dismiss the action.” Md. Code Ann., Health Gen, § 2-604 (a)(7). Accordingly, the State of Maryland requests that all claims asserted on behalf of the State of Maryland be dismissed without prejudice.

¹ This case implicates the Medicaid programs of 28 states (including New Mexico) and the District of Columbia. Counsel for the State of New Mexico, Patricia Padrino Tucker, Division Director of the Medicaid Fraud and Elder Abuse Division of the New Mexico Attorney General’s Office, has also been designated as the coordinator for this case on behalf of NAMFCU.

Further references to the “States” herein shall be construed to exclude Maryland.

Although the United States and the States decline to intervene, 31 U.S.C. § 3730(c)(3) and (b)(1) allow the relator to maintain the action in the name of the United States, but the “action may be dismissed only if the court and the Attorney General give written consent to the dismissal and their reasons for consenting.” Therefore, the United States and States request that, should the relator or the defendants propose that this action be dismissed, settled, or otherwise discontinued, this Court solicit the written consent of the United States and the States before ruling or granting its approval. Should relator move to file an amended complaint or to file any additional claim under the *qui tam* provisions of the False Claims Act, 31 U.S.C. § 3739 *et seq.*, the United States and the States request that such filing shall be done under seal pursuant to 31 U.S.C. § 3730(b), and the United States and the States shall have the opportunity to investigate and determine whether to intervene with respect to any such filing, as provided by § 3730(b).

Pursuant to 31 U.S.C. § 3730(c)(3), the United States and the States request that all pleadings filed in this action be served upon the United States and the States; and further, that the parties supply the United States, at the United States’ expense, and the States, at the States’ expense, with copies of all deposition transcripts. The United States and the States also request that orders issued by the Court be sent to the undersigned counsel. Pursuant to 31 U.S.C. § 3730(c)(3), the United States and the States reserve their right to intervene in this action, for good cause, at a later date.

A proposed order will be emailed to the Court.

Respectfully submitted.

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Acting United States Attorney

/s/ filed electronically on 5/31/2017

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/s/ approved via email

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